

Group 4

Chapter 7-4

Lead Bearing Substances

Definitions

- 4(7-4-010)**
- (1) "Child care facility" means any structure used by a child care provider, school or other facility frequented by children.
 - (2) "Children" means persons six years of age and younger.
 - (3) "Commissioner" means the commissioner of health or an appropriate designee.
 - (4) "Department" means the department of health.
 - (5) "Dwelling" means any structures all or part of which is designed or used for human habitation.
 - (6) "Exposed surface" means any interior or exterior surface of a childcare facility, school, dwelling or residential building.
 - (7) "Lead-bearing substance" means any dust on any surface or in furniture or other nonpermanent elements of the dwelling, child care facility or school, and any paints or other surface coating material containing more than the amount of lead by weight that the commissioner determines by regulation may pose a significant health hazard to humans.
 - (8) "Lead hazard" means a lead bearing substance that poses a significant health hazards to humans.
 - (9) "Lead poisoning" means the condition of having blood lead levels in excess of those considered safe under applicable regulations promulgated by the commissioner.
 - (10) "Owner" means any person, who alone, jointly or severally with others:
 - (a) Has legal title to or a beneficial interest in a land trust, or other entity having legal title to a child care facility, school, dwelling or residential building with or without accompanying actual possession of the child care facility, school, dwelling or residential building, and includes any agent of the owner, or as executor, administrators trustee or guardian of the estate of the owner;
 - (b) Has charge, care or control of or responsibility for a child care facility, school, dwelling or residential building; or
 - (c) Has an interest as a purchaser under a real estate installment contract in a childcare facility, dwelling or residential building.
 - (11) "Person" means any one or more natural person, legal entities, governmental bodies or combination thereof.
 - (12) "Residential building" means any room, group of rooms, or other interior areas of a structure designed or used for human habitation; common areas accessible by inhabitants; and the surrounding property or structures.

Lead-Bearing Substance Use

4(7-4-020) No person shall use or apply lead-bearing substances:

- (a) In or upon any exposed surface of a dwelling or dwelling unit;
- (b) In or around the exposed surfaces of a residential building, child care facility, school or other structure frequented by children;
- (c) In or upon any figures or other objects used, installed, or located in or upon any exposed surface of a dwelling or residential building, child care facility, school, or intended to be used, installed, or located and that in the ordinary course of use, are accessible to and chewable by children;
- (d) In or upon any toys, furniture, or other articles used by and chewable by children;
- (e) Within or upon a residential building or dwelling, childcare facility, school, playground, park or recreational area, or other areas regularly frequented by children.

Maintenance of Residential Buildings

4(7-4-030) Effective January 1, 1994, it shall be the duty of every owner of a residential building to maintain the residential building in such a manner so as to prevent the existence of a lead hazard.

Sale of Toys or Furniture Containing Lead Bearing Substance

4(7-4-040) No person shall knowingly sell, have, offer for sale, or transfer any toy or furniture that contains a lead bearing substance and that, in the ordinary course of use, is accessible to and chewable by children. This section shall not apply to antique furniture and toys.

Sale of Objects Containing Lead Bearing Substance

4(7-4-050) No person shall sell or transfer or offer for sale or transfer any fixtures or other objects intended to be used, installed, or located in or upon any surface of a dwelling or residential building, child care facility or school, that contains a lead bearing substance and that, in the ordinary course of use, are accessible to and chewable by children.

Warning Statement

4(7-4-060) No person, firm, or corporation shall have, offer for sale, sell, or give away any lead bearing substance that may be used by the general public unless it bears the warning statement as prescribed by regulation promulgated by the Commissioner.

Child Care Facilities Must Require Blood Lead Level Screening for Admission

4(7-4-070) Each day care center, day care home, preschool, nursery school, kindergarten, or other child care facility, licensed or approved by the State of Illinois or the Department, including such programs operated by a public school district, shall include a requirement that each parent or legal guardian of a child between the ages of six months through six years provide a statement from a physician or health care provider that the child has been screened for lead poisoning. This statement must be indicated that the screening of the child has been performed in accordance with applicable criteria mandated by the Illinois Department of Health and the Commissioner. This statement shall be provided prior to admission and subsequently in conjunction with required physical examinations.

Nothing in this section shall be construed to require any child to undergo a blood lead level screening or test whose parent or guardian objects on the grounds that the screening or test conflicts with his or her religious beliefs.

Fees

4(7-4-080) The Department may establish fees according to a reasonable fee structure to cover the cost of inspections and providing a testing service for laboratory analysis of blood lead tests and any necessary follow-up. The Commissioner may promulgate rules and regulations for waiving applicable fees for low-income persons.

Inspection of Buildings

4(7-4-090) An authorized representative of the City of Chicago charged with enforcement of this ordinance, upon presentation of the appropriate credentials to the owner, occupant, or his representative, may inspect child care facilities, schools, dwellings, and residential buildings at reasonable times, for the purposes of ascertaining that all surfaces accessible to children are intact and in good repair, and for purposes of ascertaining the existence of lead bearing substances. Such representative may remove samples or objects necessary for laboratory analysis. If a person entitled to withhold consent to an inspection refuses to allow inspection, a representative of the City may apply for a warrant to permit entry.

Procedures upon Determination of Lead Bearing Substance

4(7-4-100) Upon determination that there is a lead bearing substance in or upon any child care facility, school, dwelling or residential building which could reasonably be hazardous to children, or upon receipt of confirmation that an individual has a level of lead in his blood indicative of lead poisoning, the City of Chicago shall, as soon as is practicable, give appropriate notice to the owner of a child care facility, school, dwelling or dwelling unit, of the existence and location of a lead hazard. In addition, regardless of whether there has been compliance with the preceding sentence, the City or its authorized representative may determine is appropriate:

- (1) Providing the owner and occupants with suitable recommendations for elimination of the problem areas.
- (2) Notifying the other persons or entities with responsibility for a child care facility, school, dwelling or dwelling unit of the existence and location of such substances.

- (3) Ordering that these substances shall be removed, replaced, or securely and permanently covered within a specified time period and in a manner prescribed by the Department.
- (4) Pursuing the remedies provided for in Sections **4(7-4-140)** and **4(7-4-150)**.

Manner of Abatement of Lead Hazards

- 4(7-4-110)** The removal of the lead bearing substance from the dwelling, residential building, child care facility, or school shall be accomplished in a manner consistent with all rules and regulations promulgated pursuant to this chapter concerning acceptable and safe methods of lead hazard removal or abatement, and in a manner which will not endanger the health or well-being of its occupants, and will result in the safe removal from the premises, and the safe disposition, of flakes, chips, debris, dust, and other potentially harmful materials.

Violations

- 4(7-4-120)** Violation of any section of this chapter and any failure to comply with any order authorized pursuant to this chapter shall be punishable by incarceration not to exceed six months and by a fine not less than \$50.00 nor more than \$5000.00 for each offense. Each day that such violation or noncompliance exists shall be considered a separate offense.

Rules and Regulations

- 4(7-4-130)** The Department is authorized to promulgate reasonable rules and regulations for carrying out the provisions of this chapter.

Emergency Measures

- 4(7-4-140)** When the Commissioner finds that because of a violation of this chapter, an emergency condition exists requiring immediate action to protect the health of any person, the Commissioner may issue an emergency order reciting the existence of the emergency condition and requiring that necessary actions be taken to meet the emergency. An emergency order shall be effective immediately, and any person to whom an emergency order is directed shall comply therewith within the period of time specified in the order. Any such person shall receive a reasonably prompt notice of their right to a prompt hearing conducted by an administrative law officer of the buildings hearings division of the department of administrative hearings, pursuant to the procedures established for such hearings. Pending the hearing, the Commissioner may take whatever steps are necessary to execute the emergency order when necessary to protect the health of any person.

The entire cost of abatement and relocation actions taken or caused to be taken by the City of Chicago pursuant to this section shall be recoverable from each of the persons responsible for correcting the violations or giving rise to the emergency conditions by bringing an action in a court of competent jurisdiction or pursuant to other applicable law.

Remedies

- 4(7-4-150)** (a) The Corporation Counsel may seek relief with respect to any violation of this chapter by filing an appropriate action in the circuit court of Cook County seeking equitable relief or the penalties contained in Section **4(7-4-120)**, or both.
- (b) Upon determining that any person has not complied with an order authorized pursuant to this chapter, the Commissioner may cause such person to appear at a hearing before an administrative law officer of the buildings hearings division of the department of administrative hearings. Hearings shall be conducted pursuant to the provisions of Article III (Buildings Hearings Division) of Chapter 1(2-14) of this code.

Enforcement

- 4(7-4-160)** Any department of the City of Chicago may take appropriate action to enforce any of the provisions of this chapter when a violation of any of the provisions comes to its attention.